REMARKS

The above amendments and these remarks are responsive to the Office action dated February 25, 2004. Claims 1-26 are pending in the application. In the Office action, the Examiner allowed claims 9-13 and 18-26, and claims 2 and 8 were objected to, but were indicated to be allowable if rewritten in independent form. Furthermore, the Examiner rejected claims 1, 3-7, 14-17 under 35 U.S.C. § 102 or § 103. Applicant traverses these rejections, contending that each of these claims is neither anticipated nor obvious. However, to reduce the number of issues under consideration, to expedite issuance of a patent, and/or to address formal matters, applicant has amended claims 1, 4-6, 14, and 24-26. Furthermore, claim 3 has been canceled, without prejudice, and a new claim 27 has been added. In view of the amendments above, and the remarks below, applicant respectfully requests reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

Rejections under 35 USC § 102

The Examiner rejected claims 1, 3-7, 14, and 15 in the Office action under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,360,150 to Praz. Applicant traverses these rejections. Nevertheless, to reduce the number of issues under consideration and to expedite the issuance of a patent, applicant has amended independent claims 1, 4, and 14.

Claim 1

Claim 1, as amended, is directed to a rack device for a vehicle:

> 1. (Currently amended) A rack device for loading and carrying elongate cargo on a vehicle comprising
>
> a pair of crossbars configured to be secured to an exterior surface of a vehicle, **a first of the pair of crossbars being disposed at a height,**

a support member that telescopes out of an end of [[a]] **th** first ~~of the pair of~~ crossbar[[s]] **to at least on xtended position, the support memb r b ing configur d to provide support, substantially at th height of the first crossbar, at each extended position of th support member**, ~~and~~

a stop mechanism preventing the support member from sliding completely out of the first crossbar**, and**

a load retainer positioned near a distal end portion of the support member to prevent cargo from sliding off the support member.

Claim 1 should be allowed, among other reasons, because the Praz patent neither teaches nor suggests each of the elements of claim 1. In particular, the Praz patent does not teach or suggest a support member that provides support, substantially at the height of a first crossbar, at each extended position of the support member, or a load retainer positioned near a distal end portion of the support member to prevent cargo from sliding off the support member, as recited by claim 1.

The Praz patent involves a roof rack for vehicles. The roof rack includes a support bar with a support portion. The support portion is indicated at 4 or 4a in the various embodiments (see, for example, Figures 4, 9, 11, and 13 reproduced below). In the embodiments of Figures 4 and 13, the support portion can be stored in a tubular structure 11, and then pulled from the tubular structure to an extended position adjacent the tubular structure. Alternatively, in the embodiments of Figures 9 and 11, the support portion can be stored outside and adjacent the tubular structure, and then deployed by rotation and sliding of a guide portion (2, 2a, or 30) that is connected to the support member and disposed in the tubular structure. In each embodiment of the support bar, in the extended/deployed position, the support portion moves downward to positions below the tubular structure, to facilitate placing a load on the support portion. Accordingly, the Praz patent does not teach or suggest a support member that

telescopes from a crossbar to provide support at the height of the crossbar at each extended position of the support member, as required by claim 1.

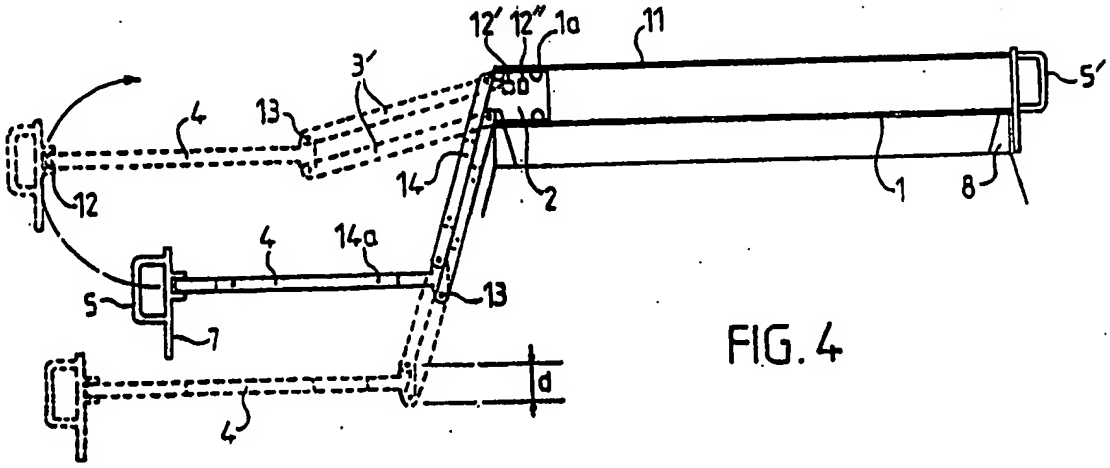

FIG. 4

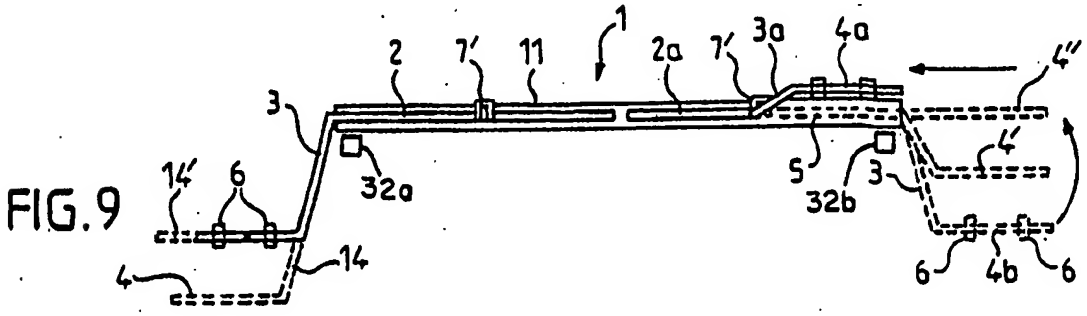

FIG. 9

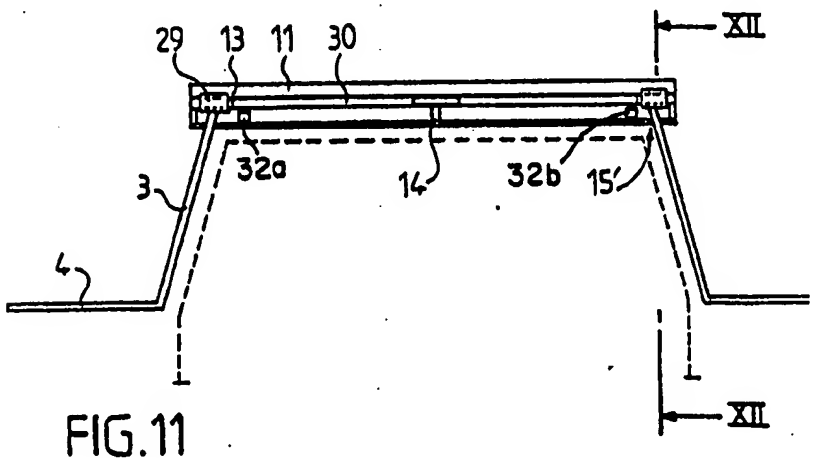

FIG. 11

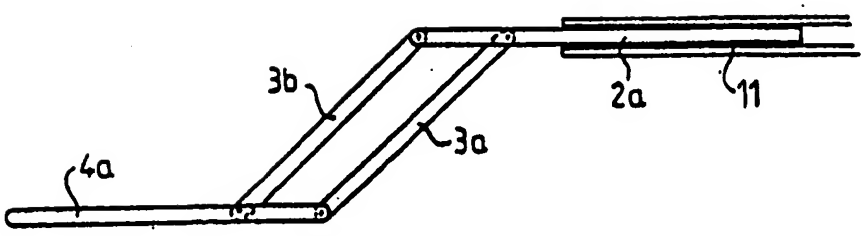

FIG.13

In the embodiment of Figure 13, the support bar includes a guide portion 2a, which apparently can be extended from tube 11 at the height of the tube at each extended position of the guide portion (until the guide portion reaches the end of the tube). However, the support bar of Figure 13 does not include a load retainer, and particularly not a load retainer positioned near a distal end of a support member configured to provide support, substantially at the height of the first crossbar, at each extended position of the support member, as recited by claim 1. Furthermore, it would not have been obvious to add a load retainer near the distal end of the guide portion 2a, at least because the Praz patent does not teach or suggest using the guide portion to support cargo.

Therefore, for at least these reasons, claim 1 should be allowed. Claim 2, which depends from claim 1, also should be allowed for at least for these same reasons.

Claim 4

Claim 4, as amended, is directed to a rack device for a vehicle:

> 4. (Currently amended) A rack device for loading and carrying elongate cargo on a vehicle comprising
>
> a pair of crossbars configured to be secured to an exterior surface of a vehicle,

a support member that telescopes from an end of a first of the pair of crossbars, the support member having a distal end portion **and defining a long axis, the support member being rotatabl about th long axis**, and

~~an external~~ **a** load retainer positioned near the distal end portion of the support member to prevent cargo from sliding off the support member ~~when being loaded onto the pair of crossbars~~.

Claim 4 should be allowed, among other reasons, because the Praz patent neither teaches nor suggests each of the elements of claim 4. In particular, the Praz patent does not teach or suggest a support member that is rotatable about its long axis, as recited by claim 4.

The Praz patent discloses various embodiments of a roof rack for vehicles. In two of the embodiments, presented, for example, in Figures 4 and 13 (reproduced above), the support portion 4 or 4a can slide from a tubular structure 11. However rotation of the support member is restricted. In particular, the Praz patent states "the tubular structure 11 comprises at its upper surface a non-represented longitudinal opening which permits the passage of fixation elements" (col. 5, lines 5-9). Apparently, this opening and the fixation elements restrict rotation. Consistent with this interpretation, the Praz patent states that fixation points 13 (apparently unrelated to the aforementioned "fixation elements"), at which the support portion 4 is pivotably connected to rods 3', "always remain in a vertical alignment" (col. 5, lines 51-52). By contrast, if the support portion were rotatable, the fixation points 13 would be rotatable with the support portion to non-vertical alignments. Furthermore, it would not have been obvious to allow the support portion 4 or 4a of these two embodiments to rotate, because such rotation would permit the support portion to rotate into positions at which downward movement of the support portion is diminished or cannot occur.

In other embodiments, presented, for example, in Figure 9 and Figure 11 (reproduced above), the support portion 4 can move along an orbital path defined by the guide portion 2 or 30 and connecting rod 3. In particular, the support member is permitted orbital movement about a long axis of the guide portion that is parallel to, but always offset from, the long axis of the support portion.

Accordingly, the Praz patent does not teach or suggest rotation of a support member about a long axis defined by the support member, as recited by claim 4. Therefore, for at least these reasons, claim 4 should be allowed. Claims 5-7, which depend from claim 4, also should be allowed for at least these same reasons.

Claim 14

Claim 14, as amended, is directed to a rack device for a vehicle:

> 14. (Currently amended) A rack device for loading and carrying elongate cargo on a vehicle comprising
>
> a pair of crossbars configured to be secured to an exterior surface of a vehicle, **a first of the pair of crossbars being disposed at a height,**
>
> an elongate support member having a distal end portion, the support member being configured to telescope out of an end of [[a]] **the** first ~~of the pair of~~ crossbar[[s]], from a stored to a **fully extended** working position, **the support member being configured to provide support, substantially at the height of the first crossbar, at the fully extended working position,** and
>
> a handle member connected to ~~the distal end portion of~~ the support member **adjacent the distal end portion**.

Claim 14 should be allowed, among other reasons, because the Praz patent neither teaches nor suggests each of the elements of claim 14. In particular, the Praz patent does not teach or suggest a support member configured to provide support, substantially at the height of a first crossbar, at the fully extended working position of the support member, or a handle member connected to the support member adjacent the distal end portion of the

support member, as recited by claim 14. Therefore, for reasons similar to those presented above for claim 1, claim 14 should be allowed. Claims 15-17, which depend from claim 14, also should be allowed for at least the same reasons as claim 14.

Rejections under 35 USC § 103

The Examiner rejected claims 16 and 17 in the Office action under 35 U.S.C. § 103(a) as being unpatentable over the Praz patent. Claim 16 and 17 depend from claim 14. Accordingly, the rejection of claim 16 and 17 should be moot in light of the amendment to claim 14 described above.

Reasons for Other Claim Amendments

Claims 5, 6, and 24-26 also have been amended. Claims 5 and 6 were amended for formal reasons. In particular, claim 4, from which these claims depend, was amended to recite a long axis. Claims 5 and 6 thus were amended to delete portions of claims 5 and 6 rendered redundant by the amendment of claim 4. Claim 24-26 were amended to conform their limitations more closely to a method format.

New Claim

A new claim, claim 27, has been added. This new claim depends from claim 4 and is fully support by the application. Accordingly, claim 27 should be allowed for at least the same reasons as claim 4.

Applicant believes that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on May 25, 2004.

Pamela A. Knight

Respectfully submitted,

KOLISCH HARTWELL, P.C.

Pierre C. Van Rysselberghe
Registration No. 33557
Customer No. 23581
of Attorneys for Assignee
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679